

**To:** "Enos, Cassandra" [cenos@water.ca.gov]  
**Cc:** "Crothers, Cathy" [crothers@water.ca.gov]; Hoffman-Floerke, Dale" [dalehf@water.ca.gov]; mebbin@emslp.com" [mebbin@emslp.com]; Nepstad, Michael G SPK" [Michael.G.Nepstad@usace.army.mil]; Jewell, Michael S SPK" [Michael.S.Jewell@usace.army.mil]; Morrow, Michelle M" [mmmorrow@water.ca.gov]; Robershotte, Paul J SPD" [Paul.J.Robershotte@usace.army.mil]; N=Tom Hagler/OU=R9/O=USEPA/C=US@EPA; Karen Schwinn/R9/USEPA/US@EPA[]; aren Schwinn/R9/USEPA/US@EPA[]  
**From:** CN=Erin Foresman/OU=R9/O=USEPA/C=US  
**Sent:** Tue 1/17/2012 7:42:00 PM  
**Subject:** Status of NEPA-404 Checkpoint A and Thursday's meeting

Hi Cassandra,

We have a NEPA-404 BDCP meeting scheduled for this Thursday and I was wondering if you might have an update on the status of a few items.

First, Tom Hagler sent an email to the group on January 3rd identifying confusion about DWR's email request for concurrence on Checkpoint A. I pasted both emails below. Tom points out that the request for concurrence on Checkpoint A is inconsistent with the draft MOU. I understand that you are working on a hard copy letter requesting concurrence on Checkpoint A and I was wondering if you've considered the points in Tom's email as you draft the letter or whether DWR is choosing a different process than the one outlined in the draft MOU. This seems like an important topic to discuss at the Thursday meeting.

Second, is DWR planning to include the signatory agencies in the checkpoint action, per the draft MOU?

Third, is there a draft of the formal request for concurrence on Checkpoint A that you can share with the group?

Thanks,  
Erin

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Erin Foresman  
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US EPA Region 9 C/O National Marine Fisheries Service  
650 Capitol Mall Suite 5-100, Sacramento, CA 95814  
Phone: (916) 930 3722

<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>

I work a part time schedule (M 7:30a - 4:00p, T - F 7:30 - 2:00p)

From: Tom Hagler/R9/USEPA/US  
To: "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>  
Cc: "Enos, Cassandra" <cenos@water.ca.gov>, "Hoffman-Floerke, Dale" <dalehf@water.ca.gov>, Marc Ebbin <mebbin@emslp.com>, Erin Foresman/R9/USEPA/US@EPA, "Jewell, Michael S SPK" <Michael.S.Jewell@usace.army.mil>, "Robershotte, Paul J SPD" <Paul.J.Robershotte@usace.army.mil>, "Crothers, Cathy" <crothers@water.ca.gov>, "Morrow, Michelle M" <mmmorrow@water.ca.gov>, Karen Schwinn/R9/USEPA/US@EPA, Chuck Gardner <cgardner@hgcpm.com>, KBogdan@icfi.com <KBogdan@icfi.com>

Date: 01/03/2012 11:00 AM  
Subject: Jumping the Gun – Checkpoint A for the NEPA/404 BDCP Integration MOU

Happy New Year to everyone!

I think we are collectively getting a little ahead of ourselves in this process.

I went back and actually read the current draft NEPA/404 BDCP Integration MOU. The most current version that was distributed to all of the agencies was the Nepstad “final” dated September 7, 2011. Since that date, the MOU has been lost in the Corps legal discussions about Section 408. I will send this out to the distribution list by separate email.

I would recommend that everyone take a look at it, since it is the only document guiding the process at this point. Two items in particular are relevant to our attempts to move through Checkpoint A.

(1) The MOU includes, as “lead agencies,” not only DWR but also BOR, FWS, and NMFS. That makes sense, given that all five agencies are Signatories to the MOU. But we seem to have collectively dropped a stitch or two here by not bringing those other agencies into the process earlier. As the MOU states (at Table 1 and Figure 1, at pages 7 and 8), the first checkpoint is initiated by the “lead agencies” when the lead agencies initiate a “coordination meeting.”

So we need to do some catch up with those agencies and get the MOU’s Checkpoint A process started.

(2) The MOU explicitly defines Checkpoint A as “NEPA Purpose and Need Statement and USACE permit process Basic and Overall Purpose Statements for the Initial Projects.” Nothing more, nothing less. When I was reading the DWR email again today, I’m having a hard time figuring out what part of it constitutes the “Basic and Overall Purpose Statements for the Initial Projects.” It may be in there, maybe not, but it needs to be more explicit, since that is what the MOU requires.

So I think we kind of jumped the gun with our victory celebration. Let’s talk about this when everyone gets back from their respective holidays.

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<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>

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From: "Enos, Cassandra" <cenos@water.ca.gov>  
To: "Jewell, Michael S SPK" <Michael.S.Jewell@usace.army.mil>  
Cc: "Hoffman-Floerke, Dale" <dalehf@water.ca.gov>, "mebbin@emslp.com" <mebbin@emslp.com>, Erin Foresman/R9/USEPA/US@EPA, "Robershotte, Paul J SPD" <Paul.J.Robershotte@usace.army.mil>, "Crothers, Cathy" <crothers@water.ca.gov>, "Morrow, Michelle M" <mmmmorrow@water.ca.gov>, Tom Hagler/R9/USEPA/US@EPA, "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>  
Date: 01/06/2012 09:19 AM  
Subject: RE: Concurrence on 404 Purpose statements (UNCLASSIFIED)

Mike - No problem, we were actually thinking the same thing. I already have something drafted and will address it to Commander Leady. Would you like me to share a draft electronic version with you and/or Mike N before we send the hardcopy? I should be able to get it to you today.

Thanks, Cassandra

-----Original Message-----

From: Jewell, Michael S SPK [mailto:Michael.S.Jewell@usace.army.mil]  
Sent: Friday, January 06, 2012 9:15 AM  
To: Enos, Cassandra  
Cc: Hoffman-Floerke, Dale; mebbin@emslp.com; Foresman.Erin@epamail.epa.gov; Robershotte, Paul J SPD; Crothers, Cathy; Morrow, Michelle M; Hagler.Tom@epamail.epa.gov; Nepstad, Michael G SPK  
Subject: RE: Concurrence on 404 Purpose statements (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Cassandra:

I'm not sure if Mike Nepstad had a chance to talk to you before he went on vacation but we'd like to concur "officially" on the purpose statements for CWA 404. Respectfully, we'd like a letter from you requesting our concurrence. The letter should be sent to:

COL William J Leady, Commander  
US Army Corps of Engineers, Sacramento District  
1325 J Street  
Sacramento, CA 95814

Make sure to mention in your letter that you've been working with representatives of his Regulatory Division.

I know, I know... I'm sounding like a typical bureaucrat. But there are good reasons to do this officially. Once we get your letter, I promise we'll respond quickly. Thanks!

Michael S Jewell  
Chief, Regulatory Division  
US Army Corps of Engineers, Sacramento District

-----Original Message-----

From: Nepstad, Michael G SPK  
Sent: Thursday, December 22, 2011 5:06 PM  
To: Enos, Cassandra; Hagler.Tom@epamail.epa.gov  
Cc: Hoffman-Floerke, Dale; Marc Ebbin; Foresman.Erin@epamail.epa.gov;  
Jewell, Michael S SPK; Robershotte, Paul J SPD; Crothers, Cathy; Morrow,  
Michelle M  
Subject: RE: Concurrence on 404 Purpose statements (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

The Corps has reviewed the attached MOU Checkpoint A - Basic and Overall Purpose for the Entire BDCP, and hereby AGREES, in accordance with the draft Memorandum of Understanding on the Integration Process for the Bay Delta Conservation Plan, these statements are acceptable and consistent with USACE regulatory procedures under Section 404 of the Clean Water Act.

Basic and Overall Project Purpose Statement Pursuant to section 404 of the clean water act

#### Basic Purpose

The restoration and enhancement of ecological functions, including aquatic habitat restoration; and improvements to the water conveyance infrastructure and the supply and reliability of water deliveries conveyed.

#### Overall Project Purpose

To implement the Bay Delta Conservation Plan (BDCP), which has been designed to achieve the co-equal goals of providing for the conservation and management of aquatic and terrestrial species, including the restoration and enhancement of ecological functions in the Delta, and improving current water supplies and the reliability of delivery of water supplies conveyed through the State Water Project (SWP) and the Central Valley Project (CVP). To accomplish these goals, the BDCP sets out a comprehensive, integrated conservation strategy that involves: 1) substantial modifications and improvements to SWP and CVP water conveyance facilities in the Delta and vicinity, including the potential addition of new points of diversion in the north Delta and other facilities to convey water around the Delta; 2) operational changes to the SWP and CVP; 3) extensive protection and restoration of physical habitat, including actions to expand the extent and

quality of intertidal, floodplain and other aquatic habitats in the Delta and vicinity; and 4) actions to address other stressors that adversely affect covered species. The BDCP will achieve these goals in a manner that meets the requirements of applicable federal and state laws, including the Endangered Species and Clean Water acts, and in accord with the Sacramento-San Joaquin Delta Reform Act of 2009.

Michael G. Nepstad  
Deputy Chief, Regulatory Division  
US Army Corps of Engineers, Sacramento District 650 Capitol Mall, Suite  
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(916) 557-7262 Fax:(916) 930-9506  
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<http://per2.nwp.usace.army.mil/survey.html>

\* Need information on the Regulatory Program? Visit our website:  
<http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/index.html>

\* Facebook: [www.facebook.com/sacramentodistrict](http://www.facebook.com/sacramentodistrict)

\* YouTube: [www.youtube.com/sacramentodistrict](http://www.youtube.com/sacramentodistrict)

\* Twitter: [www.twitter.com/USACESacramento](http://www.twitter.com/USACESacramento)

-----Original Message-----

From: Enos, Cassandra [mailto:[cenos@water.ca.gov](mailto:cenos@water.ca.gov)]  
Sent: Thursday, December 22, 2011 1:59 PM  
To: Hagler.Tom@epamail.epa.gov; Nepstad, Michael G SPK  
Cc: Hoffman-Floerke, Dale; Marc Ebbin; Foresman.Erin@epamail.epa.gov;  
Jewell, Michael S SPK; Robershotte, Paul J SPD; Crothers, Cathy; Morrow,  
Michelle M  
Subject: Concurrence on 404 Purpose statements

Mike and Tom - Thanks for meeting today to discuss the BDCP CWA 404 purpose statements. Attached (and below) is the final language we agreed upon at the meeting. Please provide an email concurrence that these purpose statements are acceptable to your respective agencies. If you have any questions I will be available today and tomorrow morning then off until December 28th.

Thank you and have a happy holiday! Cassandra

Basic and Overall Project Purpose Statement Pursuant to section 404 of the

clean water act

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#### action 1 - water operations and conveyance Infrastructure

The proposed action is the implementation of the Water Operations and Conveyance Conservation Measures component of the Bay Delta Conservation Plan. The water operations and conveyance conservations measures are designed to allow greater flexibility in balancing the needs of the Sacramento-San Joaquin Delta estuary (Delta) with reliable water supply. Specifically, actions include modifications to the State Water Project and Central Valley Project conveyance facilities, including the addition of new points of diversion in the north Delta, and other facilities to convey water around the Delta. These water conveyance measures will align water operations in the Delta to better reflect seasonal flow patterns, reduce the physical impact of a southern Delta diversion point, and protect fish with state of the art fish screens.

Cassandra Enos-Nobriga

Program Manager

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(916) 651-2987

Classification: UNCLASSIFIED

Caveats: NONE

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Caveats: NONE